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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/282,425	03/31/1999	KENJI NAGASE	122.1366	8587

21171 7590 08/11/2004

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WASHINGTON, DC 20005

EXAMINER

DAY, HERNG DER

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/282,425

Applicant(s)

NAGASE ET AL.

Examiner

Herng-der Day

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5,11-15,28-31 and 33-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5,11-15,28-31,34-36,39-45,51-54 and 62-65 is/are allowed.
- 6) ☒ Claim(s) 37,38,46-49,55-60 and 66-71 is/are rejected.
- 7) ☒ Claim(s) 33,50 and 61 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. This communication is in response to Applicants' Amendment to Office Action dated December 17, 2003, mailed April 19, 2004, received by PTO April 21, 2004, and Applicants' Amendment mailed April 20, 2004.

1-1. Claims 1, 3, 4, 28-31, 33-46, 50-54, and 61-65 have been amended. Claims 1-5, 11-15, 28-31, and 33-71 are pending.

1-2. Claims 1-5, 11-15, 28-31, and 33-71 have been examined.

### ***Interview Summary***

2. While reviewing Applicants' Amendment received April 21, 2004, the Examiner located (1) indefiniteness problems under 35 U.S.C. 112, second paragraph, with claims 37-38, 46-49, 55-60, and 66-71, which have been rejected in sections 9-8 and 9-11 of the Office Action dated December 17, 2003; and (2) informalities in the amended abstract and claims 33, 50, and 61.

On August 3, 2004, the Examiner telephoned Mr. James T. Strom (Reg. No.: 48,702) to discuss these problems. Although Mr. Strom promised to submit Supplemental Amendment to overcome all the rejections and objections, the Examiner has not received any response from Mr. Strom yet.

### ***Drawings***

3. The proposed drawing correction to Fig. 15A received by PTO April 20, 2004, has been approved. The objection to the drawings has been withdrawn.

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***Abstract***

4. Applicants have amended the abstract. However, several obvious informalities have been found in the amended abstract. Correction is required.

***Claim Objections***

5. Claims 33, 50, and 61 are objected to because of the following informalities. Appropriate correction is required.

5-1. Regarding claim 33, "and the lower sideband frequency, and", as described in lines 21-22 of the claim. (Emphasis added.)

5-2. Regarding claim 50, "comparing a voltage generated and a specified position between conductor elements", as described in lines 5-6 of the claim. (Emphasis added.)

5-3. Regarding claim 61, "comparing a voltage generated and a specified position between conductor elements", as described in lines 5-6 of the claim. (Emphasis added.)

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 37-38, 46-49, 55-60, and 66-71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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7-1. Claims 37 and 38 recite the limitation “the second calculating means” in the step of the “third calculating process” of each claim. There is insufficient antecedent basis for this limitation in the claim. For the purpose of claim examination, the Examiner will presume that “the second calculating means” refers to “the second calculating process”.

7-2. Claim 46 recites the limitation “mutual admitting this” in line 6 of each claim. The “mutual admitting this” is vague and indefinite because it has not been disclosed in the specification. For the purpose of claim examination, the Examiner will presume that the “mutual admitting this” refers to “mutual admittance”.

7-3. Claims 47-49, 55-60, and 66-71 recite the limitation “mutual admitting this” in lines 3 and 6 of each claim. The “mutual admitting this” is vague and indefinite because it has not been disclosed in the specification. For the purpose of claim examination, the Examiner will presume that the “mutual admitting this” refers to “mutual admittance”.

***Allowable Subject Matter***

8. Claims 1-5, 11-15, 28-31, 34-36, 39-45, 51-54, and 62-65 are allowed.

9. Claims 37-38, 46-49, 55-60, and 66-71 are not taught by the prior art of record, and would be allowable if the above rejections under 35 U.S.C. 112, second paragraph, are overcome.

10. Claims 33, 50, and 61 are not taught by the prior art of record, and would be allowable if the above objections regarding informalities are overcome.

***Applicants' Arguments***

11. Applicants argue the following:

11-1. Rejections under 35 U.S.C. 112, first paragraph

(1) "The claims have been amended to correct the informalities in accordance with the Examiner's suggestions and interpretations" (page 31, Amendment received April 21, 2004).

11-2. Rejections under 35 U.S.C. 112, second paragraph

(2) "The claims have been amended to correct the informalities in accordance with the Examiner's suggestions and interpretations" (pages 31-32, Amendment received April 21, 2004).

### *Response to Arguments*

12. Applicants' arguments have been fully considered.

12-1. Applicants' argument (1) is persuasive. The rejections of claims 40-43, 47-49, 51-54, 57-60, 62-65, and 68-71 under 35 U.S.C. 112, first paragraph, in the Office Action dated December 17, 2003, have been withdrawn.

12-2. Applicants' argument (2) is not persuasive. Claims 37-38, 46-49, 55-60, and 66-71 have not been amended correctly. Therefore, they are still rejected under 35 U.S.C. 112, second paragraph as detailed in sections 7 to 7-3 above.

### *Conclusion*

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Herng-der Day whose telephone number is (703) 305-5269. The Examiner can normally be reached on 9:00 - 17:30.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jean Homere can be reached on (703) 308-6647. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Herng-der Day *H.D.*  
August 8, 2004

*Thay Phan*  
*Thai Phan*  
*Patent Examiner*  
*Att: 2128*